

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

U.S. BANK NATIONAL ASSOCIATION,
as Trustee for the Registered Holders of
J.P. Morgan Chase Commercial
Mortgage Securities Corp. Multifamily
Mortgage Pass-Through Certificates,
Series 2019-SB58,

22-CV-602-LJV-LGF
DECISION & ORDER

Plaintiff,

v.

MAZEL ON DEL LLC, *et al.*,

Defendants.

On August 8, 2022, the plaintiff, U.S. Bank National Association (“U.S. Bank”), commenced this action against the defendants, Mazel on Del LLC, Benjamin Friedman, and various unnamed John Does. Docket Item 1. On January 25, 2023, this Court referred the case to United States Magistrate Judge Leslie G. Foschio for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Docket Item 23. On March 13, 2024, U.S. Bank moved for a default judgment of foreclosure and sale as to the real property located at 2763 Main Street in Buffalo, New York. Docket Item 43; see Docket Items 43-1 and 44. Judge Foschio ordered the defendants to respond by April 12, 2024, Docket Item 47, but they did not do so. On July 3, 2024, Judge Foschio issued a Report and Recommendation (“R&R”) finding that U.S. Bank’s motion should be denied without prejudice. Docket Item 55. The parties did not object to the R&R, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). The court must review *de novo* those portions of a magistrate judge's recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Foschio's R&R as well as U.S. Bank's submissions to him. Based on that review and the absence of any objections, the Court accepts and adopts Judge Foschio's recommendation to deny U.S. Bank's motion.

For the reasons stated above and in the R&R, U.S. Bank's motion for a default judgment of foreclosure and sale, Docket Item 43, is DENIED without prejudice. The case is referred back to Judge Foschio for further proceedings consistent with the referral order of January 25, 2023, Docket Item 23.

SO ORDERED.

Dated: July 29, 2024
Buffalo, New York

/s/ Lawrence J. Vilardo
LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE